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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,094

10/17/2003

Daniel Klees

210-031

9102

7590

07/31/2006

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EXAMINER

RAEVIS, ROBERT R

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/687,094

Applicant(s)

KLEES ET AL.

Examiner

Robert R. Raevis

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 10, this claim is not consistent with the originally filed disclosure, specifically p. 7, lines 7-10, as clearly represents that the cart is calibrated by employing a calibrated reference flow meter that is installed “parallel to said flow meter” (line 3 of claim 10), and not “*parallel to the flowmeter or the flow meter calibration cart 7 to be calibrated or recalibrated*” (italics added, lines 8-10 of p. 7). **(Why did Applicant replace the “or” (of claim 10(new)) with a comma?** Doing so has substantively changed the structure of this claim in a manner that lacks support.)

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As to claim 10, how is the cart 7 calibrated when the calibrated reference flow meter is not operatively connected (i.e. “reference flow meter 21 is installed in parallel to the ...flow meter calibration cart 7”, lines 8-10 of p. 7) to the cart 7?

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 10, this claim is not consistent with the originally filed disclosure, specifically p. 7, lines 7-10, as clearly represents that the cart is calibrated by employing a calibrated reference flow meter that is installed "parallel to said flow meter" (line 3 of claim 10), and not "*parallel to the flowmeter or the flow meter calibration cart 7 to be calibrated or recalibrated*" (italics added, lines 8-10 of p. 7).

Claims 15,9,11,12,13,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Adney et al.

As to claim 15, Adney et al teach a method to calculate a correction factor for a flowmeter FI (col. 11, lines 50-55; col. 12, lines 60-65) including; mounting the meter FI to a fluid system; sending "distilled water" (col. 11, line 36) (from either tank 1 or the "REFERENCE CONTAINER" (Figure 1)) through the meter; and directing the water from the meter to a drain (either container 2 or DRAIN" (Figure 1)).

As to claims 9,11,12,13, Adney et al teach a source of distilled water; flow meter FI and second meter 19/2 (weigh scale that measures flow) (col. 15, lines 55-65); and drain pipe (see 'DRAIN" in Figure 1) that is operatively connected to the meters to guide liquid from the flow meter FI to drain. As the elements 2/19 are a 2-liter flask (col. 13, lines 12-13) and scale, those two elements appear to be mobile, and thus may be

deemed to be as much a cart as that claimed. ("Flow meter calibration carts are mobile units", as per p. 2, lines 16-19, of Applicant's specification)

As to claim 14, note that the REFERENCE CONTAINER is between the tank 1 and the meter FI.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Daugherty teach (Para 8) fluidly connected a single flow meter with a source of sterilized water; however, there is not "flow meter calibration cart" (Applicant's claim 9), which is in addition to a "flow meter" (Applicant's claim 9), and Daugherty's meter is not connected to a "drain" (Applicant's claim 9). In addition, the water in Daugherty does not "pass "through the fluid meter" (Applicant's claim 15), and the structure does not provide for a "calibration" (Applicant's claim 15) rig.


Choi et al teach passing sterile water through a flow sensor 146 in an ice cube maker, the sensor 146 providing a signal when an amount of water has passed through. Choi even employs a drain path 152. However, the sensor is not calibrated within the ice cube maker, and thus the system does not employ a "*calibration* rig" (italics added, line 4 of Applicant's claim 15). In addition, the system does not employ both a flow meter and flow meter calibration cart as called for in Applicant's claim 9.

Bissardon et al connects a meter 20 with sterilized water, but the sterilized water is not "pure" as indicted by the additives (22,4,16).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RAEVIS